

August 20, 2012

Marlene H. Dortch Secretary Federal Communications Commission 445 12th St. SW Washington, DC 20554

Re: WT Docket No. 12-4, Proposed Assignment of Licenses to Verizon Wireless from SpectrumCo and Cox TMI Wireless

Dear Ms. Dortch:

Today, John Bergmayer, Senior Staff Attorney and Jodie Griffin, Staff Attorney at Public Knowledge (PK) spoke by phone with Joel Rabinovitz, Jim Bird, and Rick Kaplan of the FCC.

PK continues to believe that much of the information that the parties have designated as Highly Confidential should, in fact, be public. Parties that file documents before the Commission should expect them to be public, except to the extent that they contain commercially sensitive information. The mere fact that information is not already public is not enough for it to merit Confidential or Highly Confidential treatment at the Commission.

It is true that some parties may choose not to "voluntarily" file certain kinds of information before the Commission unless they are given assurances that it will be given some form of confidential treatment. But the Commission has broad authority to require that parties file certain documents and if any parties balk at making certain information public it should do so.

Thus, PK continues to think that the Commission should redesignate the material in question in its May 9th Confidentiality Challenge as public. However, PK does recognize that the Commission may find it prudent to require that some information that is currently designated as Highly Confidential be refiled as Confidential. If it does this, it should ensure that new parties can continue to have access to any relevant information, and that if the same information is refiled in another docket it is refiled using the correct designation. Not all parties that may require access to this Confidential information may have filed a Petition to Deny in WT Docket No. 12-4, nor should they be required to have done so in order to review it in the future. While the Commission does not have to make this information available indefinitely it needs to be accessible long enough to ensure that all parties can enforce their rights. Furthermore, the information needs to be available to all parties that have rights to enforce. Submitting parties have taken advantage of ambiguities in the Commission's rules and protective orders to selectively challenge some reviewing parties from having access to Confidential information who did not meet certain criteria, and not others. This kind of gamesmanship, when coupled with misdesignation of material, allows submitting parties to manipulate the system to their advantage, and should be avoided in the future.

Respectfully submitted,
/s John Bergmayer
Senior Staff Attorney
PUBLIC KNOWLEDGE